IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 6TH DECEMBER 2007 / 15TH AGRAHAYANA 1929

Bail Appl..No. 7459 of 2007()

CRIME NO. 318/07 OF KOZHINJAMPARA POLICE STATION

PETITIONERS/ACCUSED

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1. RIYASUDEEN ALI AHAMMED, AGED 34,
   S/O.ABDUL KAYOOM, NILA MANZIL,
   ATHICODE P.O., CHITTUR TALUK,
   PALAKKAD - 678 554.

2. ABDUL KAYOOM, S/O.HAMEED MASTER,
   NILA MANZIL, ATHICODE P.O., CHITTUR
   TALUK, PALAKKAD - 678 554.

3. NILAFOOR NEESA, W/O.ABDUL KAYOOM,
   NILA MANZIL, ATHICODE P.O., CHITTUR TALUK,
   PALAKKAD - 678 554.

BY ADV. SRI.H.BADARUDDIN

RESPONDENTS: COMPLAINANT & STATE

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1. THE STATION HOUSE OFFICER,
   KOZHINJAMPARA POLICE STATION,
   PALAKKAD.

2. THE STATE OF KERALA, REPRESENTED BY
   THE PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 06/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 7459 of 2007

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Dated this the 6th day of December, 2007

O R D E R

Application for anticipatory bail. The petitioners are husband and parents-in-law of the defacto complainant. There was allegedly matrimonial cruelty of the culpable variety against the defacto complainant at the matrimonial home. She was hence compelled to consume poison. She was taken to the hospital and hurriedly discharged from the hospital and sent to her parental home. Thereafter she developed ailment and was admitted to the hospital. Subsequently the complaint was filed and the F.I.R. was registered. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned Prosecutor, in the circumstances of this case, does not oppose the application for anticipatory bail of petitioners 2 and 3. I am satisfied that anticipatory bail can be granted to them. The learned Prosecutor opposes the application in so far as the first petitioner is concerned. The defacto

complainant had attempted to commit suicide allegedly unable to stand the cruelty meted out towards her by the petitioners. On that aspect of the matter there cannot be any dispute now. We have the allegations of the victim and her relatives that matrimonial cruelty is the factor which prompted her to consume poison to commit suicide.

3. I am satisfied, in the facts and circumstances of this case, that anticipatory bail can be granted to petitioners 2 and 3, subject to appropriate terms and conditions.

4. In the result:

(1) This application is allowed in part.

(2) The application in so far as it relates to the first petitioner is dismissed. I may however hasten to observe that if the first petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously.

(3) The following directions are issued under Section 438 Cr.P.C. in favour of petitioners 2 and 3.

(a) The petitioners 2 and 3 shall surrender before the learned Magistrate on 13.12.2007 at 11 a.m. The learned Magistrate shall release the petitioners on regular bail on condition that they execute bonds for Rs.25,000/- (Rupees twenty five thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioners 2 and 3 shall make themselves available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 14.12.07 and 15.12.2007 and thereafter on all Mondays and Fridays between 10 a.m. and 12 noon for a period of two months and subsequently as and when directed by the Investigating Officer in writing to do so.

(c) If they do not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 13.12.07 and the police shall be at liberty thereafter to arrest the petitioners 2 and 3 and deal with them in accordance with law.

(d) If the petitioners 2 and 3 were arrested prior to their surrender on 13.12.2007 as directed in clause (1) above, they shall be released

on bail on their executing bonds for Rs.25,000/- each without any surety undertaking to appear before the learned Magistrate on 13.12.2007.

(R. BASANT)
Judge

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